IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 698 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DEESA NAGARPALIKA & ANOTHER

Versus

STATE OF GUJARAT & ANOTHER

Appearance:

1. Special Civil Application No. 698 of 1994

MR KS JHAVERI for Petitioner No. 1-2

Mr.Gori, AGP for Respondent No. 1-2

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 24/10/2002

ORAL JUDGEMENT

The present petition is preferred by the petitioner for appropriate direction to the respondent

authorities to pay the grant of salary of non-teaching staff admissible under the Act and Rules from the day on which the petitioner No.2-school is recognised by the respondents.

2. The short facts of the case are that the petitioner school is run by the Nagarpalika and the State Govt had sanctioned salary of teachers and the case of the petitioners is that the grant is being paid to the Nagarpalika for the school which is under the control of the petitioner so far as teaching staff is concerned. However, so far as nonteaching staff is concerned, the case of the petitioner is that the grant is required to be paid. The petitioner has placed reliance on the judgment of this court (coram: A.P.Ravani,J) dated 2.3.90 in SCA No.1363/87 and judgment in Spl.C.A.No.2269/83 dated 26.11.1984/4.12.1984 and it has been submitted that in the same manner the petitioner would be entitled to have grant for nonteaching staff also.

3. On behalf of the State Govt, Mr.Gori, Ld.AGP states that he has no instructions as to whether the judgment dated 2.3.90 is holding the field or not, however, if the direction is given to the State Govt to consider the matter in light of the judgment dated 2.3.90 and subsequent judgments holding the field and as per the provisions of Act and Rules there is no objection for the same.

4. Considering the above facts and circumstances of the case, it is directed that the respondent authorities shall consider the case of the petitioner for the purpose of the grant for nonteaching staff in accordance with law and while taking the said decision the respondent authorities shall also take into consideration the decisions dated 2.3.90 of this court in SCA No.1363/87 and dated 16.11/4.12.84 in 2269/83 copy whereof is at annexure D to this petition. The aforesaid exercise shall be undertaken and the decision in accordance with law shall be rendered within a period of three months from the date of receipt of writ of this court. If the decision is taken by the authorities that the petitioner is eligible to get the grant for nonteaching staff also, then the reimbursement shall be made as early as possible.

5. The petition is disposed of in terms of aforesaid directions. Rule is made absolute accordingly. There shall be no order as to costs.

24.10.02 (JAYANT PATEL,J)